

REMARKS/ARGUMENTS

This Amendment is being filed in response to the Office Action dated June 29, 2011. Reconsideration and allowance of the application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-10 are pending in the Application. Claims 1 and 9 are independent claims.

By means of the present amendment, the claims are amended including for better conformance to U.S. practice, such as deleting reference numerals typically used in European practice that are known to not limit the scope of the claims. Further amendments include changing "characterized in that" to --wherein--, correcting typographical errors, amending dependent claims to begin with "The" as opposed to "A" as well as correcting certain informalities noted upon review of the claims. By these amendments, the claims are not amended to address issues of patentability and Applicants respectfully reserve all rights under the Doctrine of Equivalents. Applicants furthermore reserve the right to reintroduce subject matter deleted herein at a later time during the prosecution of this application or continuing applications.

In the Office Action, the drawings are objected to. In response, the specification is amended to correct the reference numerals identifying the "field generator". Accordingly, Applicants respectfully request approval of the drawings and withdrawal of the drawing objection.

In the Office Action, claims 6-10 are objected to for informalities. In response the Applicants have amended the objected claims to correct the informalities pointed out by the Examiner. Accordingly, withdrawal of this objection is respectfully requested.

Claims 1-10 are rejected under 35 U.S.C. §112, second paragraph. In response, in the interest of expediting consideration and allowance of the pending claims, the rejected claims are amended to address the concerns raised in the Office Action. Accordingly, it is respectfully submitted that the rejected claims are in proper form and it is respectfully requested that this rejection be withdrawn.

In the Office Action, claims 1-3 and 7-10 are rejected under 35 U.S.C. §102(e) over U.S. Patent No. 6,892,090 to Verard et al. ("Verard"). Claims 4-5 are rejected under 35 U.S.C. §103(a) over Verard in view of U.S. Patent No. 7,366,562 to Dukesherer et al. ("Dukesherer"). Claim 6 is rejected under 35 U.S.C. §103(a) over Verard in view of U.S. Patent No. 6,198,963 to Haim et al. ("Haim"). These rejections are respectfully traversed. It is respectfully submitted that the rejected claims are allowable over the presented prior art references for at least the following reasons.

Verard describes a surgical instrument navigation system that includes a surgical instrument; an imaging device operable to capture scan data; a tracking subsystem that employs electro-magnetic sensing to capture the position of the surgical instrument; and a data processor which is operable to render a volumetric, perspective image of the internal region of interest. There is nothing in this reference that discloses correcting the captured position of the surgical instrument as substantially recited in the claims. The only reference to correcting is found at page 7, lines 7-9 of Verard, which state that "[t]he tracking along the center of the vessel may also be further refined by correcting for motion of the respiratory or cardiac cycle".

The claims are amended to clarify their recitations. In particular, the claims recite correcting the plurality of spatial positions of the first and second localizers.

It is respectfully submitted that the claims are not anticipated or made obvious by the teachings of the presented prior art references. For example, Verard does not teach, disclose or suggest, amongst other patentable elements, (illustrative emphasis added) "correcting the plurality of spatial positions of the first and second localizers, taking into account the vascular map and a quality dimension including weighted components for measuring the deviation of the plurality of spatial positions, orientation of the instrument, and/or the shape of the instrument section from a layout represented by the vascular map" as recited in claim 1, and as similarly recited in claim 9. Dukesherer and Haim are introduced for allegedly showing elements of the dependent claims and as such, do nothing to cure the deficiencies in Verard.

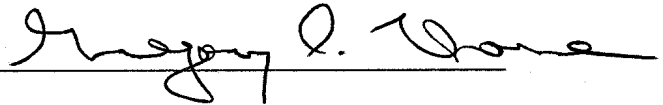
Based on the foregoing, the Applicants respectfully submit that the independent claims are patentable and notice to this effect is earnestly solicited. The dependent claims respectively depend from one of the independent claims and accordingly are allowable for at least this reason as well as for the separately patentable elements contained in each of the claims. Accordingly, separate consideration of each of the dependent claims is respectfully requested.

In addition, Applicants deny any statement, position, or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support

of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

Applicants have made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

By 

Gregory L. Thorne, Reg. 39,398
Attorney for Applicant(s)
September 28, 2011

THORNE & HALAJIAN, LLP
111 West Main Street
Bay Shore, NY 11706
Tel: (631) 665-5139
Fax: (631) 665-5101